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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/866,374  | 05/25/2001  | Henry Collins        | CTX-070             | 4420             |
| 959   | 7590        | 12/14/2004           |                     | EXAMINER         |
| LAHIVE & COCKFIELD, LLP.<br>28 STATE STREET<br>BOSTON, MA 02109 |             |                      | NGUYEN, DUSTIN      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2154                |                  |

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 09/866,374             | COLLINS, HENRY      |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Dustin Nguyen          | 2154                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 August 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date continuation below.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

Continue of IDS: 06/28/2000; 12/07/2001; 02/22/2002; 10/06/2003.

**DETAILED ACTION**

1. Claims 1 – 13 are presented for examination.

***Information Disclosure Statement***

2. Examiner requests Applicants to disclose the date [ to include both month and year ] for all non-patent literature in the IDSs.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patel et al. [ US Patent No 6,731,600 ], in view of Zhang et al. [ US Patent No 6,181,711 ].

5. As per claim 1, Patel discloses the invention substantially as claimed including a method of adapting a rate of processing activity in response to changing network conditions, the method comprising the steps of:

processing graphical data by a server agent at a first rate [ col 1, lines 14-16; and col 1, lines 32-35 ], the processed graphical data being addressed to a client agent via a network coupled to the client and server agent [ 100, Figure 1; and col 5, lines 17-22 ];

determining the network conditions of the network [ col 1, lines 46-48; and col 4, lines 43-54 ]; and

Patel does not specifically disclose

adjusting, by the server agent, the rate of processing activity of the server agent from the first rate to a second rate in response to a change in the network conditions.

Zhang discloses

adjusting, by the server agent, the rate of processing activity of the server agent from the first rate to a second rate in response to a change in the network conditions [ col 2, lines 46-50; and col 6, lines 41-49 ].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Patel and Zhang because Zhang's teaching would allow to deliver information in a more efficient manner.

6. As per claim 2, Patel discloses

transmitting the processed graphical data to the client agent [ Figure 3; Abstract ]; measuring, by the client agent, a time differential associated with transmitting the processed graphical data [ Figure 3; and col 4, lines 22-26 ], the time differential corresponding to the change in the network conditions [ col 1, lines 46-53 ]; and

selecting the second rate in accordance with the time differential [ i.e. adjust ] [ col 13, lines 24-30 ].

7. As per claim 3, Patel does not specifically disclose processing the graphical data at the first rate in accordance with a first encoding scheme; selecting a second encoding scheme in response to the change in the network conditions; processing subsequent graphical data in accordance with the second encoding scheme. Zhang discloses processing the graphical data at the first rate in accordance with a first encoding scheme; selecting a second encoding scheme in response to the change in the network conditions; processing subsequent graphical data in accordance with the second encoding scheme [ i.e. new coding ] [ col 7, lines 59-65; and col 22, lines 11-18 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Patel and Zhang because Zhang's teaching would allow to convert a bit stream of a given bit rate to a different bit rate for reliable transport over communication channels. [ Zhang, col 4, lines 20-22 ].

8. As per claims 4, 5, they are rejected for similar reasons as stated above in claims 1-3.

9. As per claim 6, it is rejected for similar reasons as stated above in claims 1 and 2. Furthermore, Patel discloses the first and second time periods [ i.e. time intervals ] [ col 7, lines 24-55 ].

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10. As per claim 7, Patel does not specifically disclose the first time period is determined by scrolling a frame buffer of the server. Zhang discloses the first time period is determined by scrolling a frame buffer of the server [ col 3, lines 42-45 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Patel and Zhang because Zhang's teaching would allow to provide a more flexible buffer space for controlling data transfer.

11. As per claims 8 and 9, they are rejected for similar reasons as stated above in claims 1 and 3.

12. As per claim 10, it is rejected for similar reasons as stated above in claims 1 and 3.

13. As per claim 11, it is rejected for similar reasons as stated above in claim 2.

14. As per claims 12 and 13, they are rejected for similar reasons as stated above in claims 1 and 7.

15. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (703) 305-5321. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached at (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner

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JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100